

ORIGINAL

FILED

AUG - 4 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

In The United States District Court
For The Northern District Of California

Dennis Ray Barnett,
Petitioner.

v.

Mike Knowles, Warden,
Respondent

C08-1604 RMW (PR)

Reconsideration of
Appointment of Counsel &
Statement concerning
Attorney General

To The Honorable Judge Of United States District Court.
Honorable Judge Ronald M Whyte, First off Judge Whyte,
I am not the one who is writing this to you, due
to the facts that I really can't read or write and I
do suffer from mild mental retardation and on or
about May 7, 2008, you denied my motion for
appointment of counsel, in which I felt was unfair
to do so, especially when I'm fighting for my life here

NO
Envelope
Attached

1
2 facing 45 years to life.

3 But the main reason I'm writing this to
4 you Judge Whyte, is to state to the Court that after
5 the Attorney General file his motion for application for
6 enlargement of time to file an answer. The Court
7 should of allowed me a little time to file a response to
8 the Attorney General's request for enlargement of time,
9 before granting the Attorney General's motion, because
10 Judge Whyte, the Attorney General's Office, is the same
11 Attorney General's Office that handled my case all
12 through the lower Courts of Appeal in the State Court,
13 and at that time Judge Whyte, the Attorney General
14 had my entire record of conviction and shouldnt of
15 been asking the Courts now for enlargement of
16 time to do so.

17
18 I truly feel Judge Whyte, that the
19 Attorney General used this for an excuse for more
20 time because he realized he ran out of time to
21 file his response to your order of show cause and
22 he knew nothing about my case (EVEN) at the
23 time he file his application for enlargement of
24 time and by the court granting the Attorney
25 General's motion it played right into his hands
26 of using the courts

27 Again Honorable Judge Whyte, I
28 would deeply appreciate it if you would please
reconsider my motion for appointment of counsel

1
2 and please take the attached documents
3 (Exhibits A & B) under consideration and grant
4 my motion for appointment of counsel.

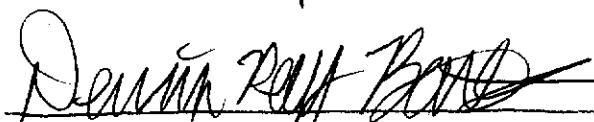
5 Petitioner prays that the court will
6 reconsider his motion to appointment of counsel
7 and grant counsel due to the fact that petitioner
8 cant read or write and he suffers from mild
9 mental retardation and his (TABE) test (Exhibit B)
10 shows the total battery of 2.9

11 I Dennis Ray Barnett, I am the petitioner
12 in this action. I declare under penalty of perjury under
13 the laws of the State of California, that the foregoing
14 allegations and statements are true and correct,
15 except as to matters that are stated on my
16 information and belief and as to those matters, I
17 beleive them to be true.
18
19
20
21
22

Sincerely submitted

23
24 July 27, 2008

25 Date



Dennis Ray Barnett C-77539

Case Name: Barnett v. Knowles
Case Number: C08-1604 RMW (PR)
Court: U.S. District Court, Northern District

PROOF OF SERVICE BY MAIL

I, Dennis Ray Barnett declare:

That I am over the age of eighteen years of age and am not a party to the above entitled cause of action.
That I reside in Solano County, California at the California Medical Facility, at 1600 California Drive, P.O. Box 2500, Vacaville, California, 95696-2500.

That on July 27, 2008 I served the attached: a true copy of the attached:
Petition To U.S District Court Judge Ronald M. Whyte and
to the Attorney General Office

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal legal mail collection system at the California Medical Facility, Vacaville, California, addressed as follows:

Attorney General's Office
455 Golden Gate Ave, Suite 11000
San Francisco, Ca. 94102-7004

U.S District Court of California
Northern District
Judge Ronald M Whyte
280 South First Street Rm. 2112
San Jose, Ca.
95113-3095

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct. That this proof of service was executed on the July 27, 2008 at California Medical Facility, Vacaville, California.

Dennis Ray Barnett
Declarant

Dennis Ray Barnett
Declarant's Signature

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): DENNIS BARNETT, C-77539 CALIFORNIA MEDICAL FACILITY P.O. BOX 2500 P-112-LOWER VACAVILLE, CA 95696-2500		C08-1604 RMW(PA) CASE NUMBER: 199321 COURT OF APPEAL NUMBER:
NAME OF COURT: U.S. DISTRICT COURT OF CALIFORNIA NORTHERN DISTRICT STREET ADDRESS: JUDGE RONALD M. WHITE MAILING ADDRESS: 280 SOUTH FIRST STREET RM 2112 CITY AND ZIP CODE: SAN JOSE, CA 9513-3095 BRANCH NAME:		
CERTIFICATE OF SERVICE BY MAIL TO:		
YOU ARE HEREBY NOTIFIED THAT THE PETITION TO U.S. DISTRICT COURT JUDGE RONALD M. WHITE AND TO THE ATTORNEY GENERAL OFFICE		

CERTIFICATE OF MAILING

CERTIFICATE OF MAILING

I certify that I am a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at **CALIFORNIA MEDICAL FACILITY, VACAVILLE, California, addressed** on (date): **JULY**

ATTORNEY GENERAL'S OFFICE
455 GOLDEN GATE AVE
SUITE 11000
SAN FRANCISCO CA
94102-7004

U.S. DISTRICT COURT OF CALIFORNIA
NORTHERN DISTRICT
JUDGE RONALD M. WHITE
280 SOUTH FIRST STREET RM 2112
SAN JOSE, CA 9513-3095

I declare, under the penalty of perjury, that the above is true and correct and that this declaration was executed on the 27 day of July, 2008, at Vacaville, California.

Dennis Ray Barnett

CERTIFICATE Petitioner/Declarant **DENNIS RAY BARNETT**

certify that the foregoing is a true and correct copy of the original on file

EXHIBIT

A

TEST RESULTS: Due to his inability to read and write, Mr. Barnett was not administered the group I.Q. nor achievement tests. In addition, he was not able to take the personality inventory customarily administered. Consequently, Mr. Barnett was given individualized tests (see Vocational Psychologist's report on I.Q. testing). Due to Mr. Barnett's lock-up status, he had to be interviewed at the lock-up wing. Inasmuch as he has been classified High Violence Potential as a result of the offense for which he is charged, he had to be interviewed in handcuffs. Mr. Barnett seemed to handle these restraints quite well. The memory test indicated that he does have significant memory impairment, scoring a mental quotient which indicates he suffers from mild mental retardation. It would appear that Mr. Barnett is capable of functioning within the Goodwill Industries in an effective and gratifying way. However, he would be profoundly handicapped were he to participate in tasks which required much verbal communication or mental calculation. In addition, Mr. Barnett has a great deal of difficulty making quick, responsible decisions. It is difficult for him to assess the situation comprehensively and accurately. However, he is very motivated and eager to win approval and to try. Mr. Barnett tends to persevere; that is, he repeats an idea or concept in his mind. It is likely he does this in order to retain the idea. Another difficulty Mr. Barnett has is a tendency to rotate visual images. That is, it is difficult for him to remember the position of objects or figures, although he has a fair retention of shape. This may make it difficult for Mr. Barnett to maneuver successfully in his environment.

The short projective test indicated that Mr. Barnett does experience some of the psychological effects of his handicap. In addition, while adapting in many ways, he does tend to have fears and experience tension in relationship to his interacting with others. He is likely to be suggestible inasmuch as he wants to please and is easily intimidated at the same time. It would be difficult for Mr. Barnett to stand on principle in opposition to those with stronger personalities. This may be partly an issue in the offense of which Mr. Barnett has been accused at present.

SUMMARY AND RECOMMENDATIONS: Mr. Barnett is a young man with a marked handicap in that his intellectual impairment and lack of impulse control, as well as a pattern of increasing criminal activity, has placed him in a position in which the chances for rehabilitation are becoming increasingly smaller. It is unfortunate that our placement options are so limited for people such as Mr. Barnett who, lacking sufficient value structure of their own, are easily influenced to behave in ways which are at risk to society. It is imprudent to make a probation recommendation given the impulsivity and lack of independent thinking as evidenced in Mr. Barnett. On the other hand, placing him in a prison setting in which he can continue to be influenced by those whose values are, by definition, in opposition to that of the larger society, hardly seems rehabilitative. Given that our criminal

BARNETT	C-48004-Z	NRC-CMF	7-21-82	mm	6
RECOMMITTED AS	C-77539		1-6-84	js	

justice system is geared toward the protection of society as opposed to the rehabilitation of the criminal, a Department of Corrections recommendation is being made. It is suggested that, if possible, Mr. Barnett is referred to a prison in which the influence of more sophisticated and criminally inclined inmates is minimal. Further, it is recommended that Mr. Barnett's probation officer's recommendations are applied to his conditions of parole. That is, a program in which he is supervised for considerable periods of time and in which employment, such as at the Goodwill Industries is encouraged and monitored.

DAIGNOSTIC IMPRESSIONS:

- Axis I: 317.01 & 318.01 Mild to Moderate Mental Retardation, Criminal habits & Impulsivity as additional behavioral symptoms
 312.00-10 Conduct Disorder, undersocialized (aggression factor deferred)
 299.91 Pervasive Developmental Disorder, Childhood onset. Full syndrome
- Axis II: 315.50 Mixed Specific Developmental Disorder: reading arithmetic, language and articulation difficulties
- Axis III: Physical Conditions: undiagnosed
- Axis IV: Psychosocial Stress - Severe: arrest, incarceration, solitary, prolonged ambiguity
- Axis V: Previous Adaptive Functioning - Very Poor: marked impairment in vocational and social functioning

6-24-82

J. A. Roth, Ph. D.
 Staff Psychologist

This evaluation is not considered confidential.

BARNETT C-48004-Z
 RECOMMITTED AS C-77539

NRC-CMF

7-21-82

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EXHIBIT

B

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

CDC 128-B

NAME AND NUMBER

BARNETT

C-77538

H-314-L

On 6/16/03 this inmate was tested with the tests of Adult Basic Education (TABE). His grade level scores are as follows:
Reading: 2.5 Mathematics: 3.3 Language: 2.3 Spelling: 6.1 Total Battery: 2.9
*Total score is Norm Referenced (Survey Form) or (Full Battery) or 8 Level: EM D A

CENTRAL FILE

CC:

☒ CCI

☐ Compliance Team

☒ Inmate

E. Enhouse
E. ENHOUSE
Academic Testing
CMF